

1 Earl Childs - F.14068

(3-8-2024)

2 B-6-125 - CSP- Sac

3 P/O Box-290061

**FILED**

4 Represa, CA 95671

MAR 14 2024

5 Pro-per / Pro-Sa

6 Plaintiff.

CLERK, U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA  
OAKLAND OFFICE

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IN THE UNITED STATES DISTRICT  
COURT FOR THE NORTHERN DISTRICT  
OF CALIFORNIA - OAKLAND DIVISION

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EARL Childs,

Plaintiff,

H. Gasca, et al.,

Defendants.

CASE NO: 4:21-cv-09466-JSW

PLAINTIFF'S OPPOSITION TO

DEFENDANT'S MOTION FOR

SUMMARY Judgment

MEMORANDUM IN SUPPORT OF

SUPPORT OF SUMMARY Judgment.

Judge: Hon. Jeffrey S. White

Trial Date: NOT SET.

Action filed: 12/09/2021

TO THE honorable judge herein I am sending this opposing  
 Motion in, ~~is~~ am respectfully asking to forgive me plaintiff for the  
 extra pages in my opposing Motion, due to writing big and hand and  
 eye issues.

MEMORANDUM OF POINTS AND AUTHORITIES

## I.

## INTRODUCTION

1 Plaintiff, who is currently in custody at (CSP - Sacramento  
 2 CDCR), has filed a pro-se civil rights action pursuant to 42 U.S.C. §  
 3 1983, stating a violation of his Constitutional rights by prison officials  
 4 at Salinas Valley State Prison ("SVSP"), where he was previously  
 5 incarcerated. In the complaint, Plaintiff named the following SVSP  
 6 prison officials in both individual and official capacities: Plaintiff  
 7 seeks monetary and punitive damages, also Plaintiff states a cognizable  
 8 deliberate-indifference-to-safety claim against Defendants Gasca,  
 9 Coronado-Rodriguez, and Aragon for failing to intervene during the  
 10 May 25, 2021 attack on plaintiff by Inmate Brown,  
 11

## II. BACKGROUND.

12 Plaintiff, who uses a cane and wears an ADA<sup>2</sup> mobility impaired  
 13 vest, was housed at the mental health unit of (SVSP) during May 21,  
 14 of 2021. Dkt. 1 @ 8. on May 25, 2021, at around 11:30 A.M. Plaintiff  
 15 walked out to the recreational yard ("rec yard") with his vest and  
 16 cane as well as his "safety sunglasses to protect [his] eyes due  
 17 to... Corneal transplant surgery performed on [his] right eye." *Id.*  
 18 As plaintiff walked through the first gate, he passed Defendant  
 19 Gasca, who was assigned to monitor and supervise the rec yard.  
 20 Plaintiff then walked through the last gate and Defendant  
 21 Gasca said, "last one for yard."  
 22 Plaintiff walked to the yard tables, and as he was taking off  
 23 his sunglasses he saw another inmate he had never seen before,  
 24 who was initially standing several yards away walk over to  
 25 Plaintiff and then start attacking him. The other inmate who  
 26 is identified as "Inmate Brown - #BL3696," starting attacking him  
 27  
 28

2<sup>2</sup> ADA stands for the Americans with Disabilities Act of 1990.

1 and said, This is for the %'s, before he punched plaintiff  
 2 two times in the face, and then in the upper body  
 3 Plaintiff held (Brown) and called for Defendant Gasca for  
 4 two minutes to help, and hit his alarm.  
 5 Plaintiff filed a civil 1983, complaint, and the U.S.D.C.-N.D.C.  
 6 ordered plaintiff to Amend, and serve cognizable claims  
 7 "Cart stating" ("Plaintiff States a cognizable deliberate-  
 8 indifference-to-safety claim against defendants Gasca,  
 9 Coronado, and Aragon for failing to intervene during the May  
 10 25, 2021 attack on Plaintiff by inmate Brown (see Dkt. 10 at 6  
 11 Lines 18-20)

### 12 ~~III~~ ISSUES PRESENTED

13 The defendants Coronado, Aragon violated plaintiff's civil  
 14 rights by way of failing to intervene during the May 25, 2021  
 15 attack on plaintiff by inmate Brown, they were deliberately  
 16 indifferent to Plaintiff's safety, and from dangerous conditions  
 17 All Three defendants knew about the substantial risk and  
 18 failed to properly respond reasonably.  
 19 Prison Guards have a constitutional duty to take reasonable  
 20 measures to protect mental health-inmates who are being  
 21 assaulted by other inmates (see cases: Farmer v. Brennan  
 22 511 U.S. 825, 833-34, 114 S. Ct. 1970, 1976-77, 128 L. Ed. 2d 811, 822-23 (1994)  
 23 violation of 8th amendment (Riccardo v. Rausch, 375 F.3d 521, 526 (7th  
 24 Cir. 2004)).  
 25 Why The defendants are not entitled to qualified immunity, also  
 26 Plaintiff is the opposing party herein and is presenting  
 27 undisputed facts and is showing there is a "genuine issue"



1 of "Material fact" and plaintiff is presenting evidence and  
 2 proof, such as, Affidavits, Declarations, Interrogatory responses,  
 3 deposition transcripts, CDCR Reports, paperwork, other documents  
 4 and court reports showing, why favorable should go to the  
 5 party opposing the motion" (Adickes v. S.H. Kress & Co.,  
 6 398 U.S. 144, 157, 160 (1970) Also (Curry v. Scott, 249 F.3d 493-505  
 7 (6th Cir. 2001).

## 8 STATEMENT OF FACTS

### 9 I. SUMMARY OF PLAINTIFF'S CLAIM AND PARTIES:

10 Plaintiff (Earl Childs) is an inmate-mental health-patient  
 11 incarcerated by the California Department of Corrections and  
 12 Rehabilitations (CDCR) and was housed in The mental Health  
 13 Program (PIP) (E.O.P) in Treatment Center 2 (TC 2) at (SVSP)  
 14 Salinas Valley State Prison. Also (HE) is a part of the (A.D.A.)  
 15 Armstrong Class member, designated as DNM. Due to he  
 16 uses a cane to help him get around, and have vision  
 17 issues and wear a mobility impaired vest to let staff  
 18 know he cannot get down on the ground and have a  
 19 special cuffing chrono that prohibits staff from cuffing  
 20 him behind his back. (SEE Exhibit "I" ) page  
 21 The Defendants are 1) Gasca; 2) Coronado-Rodriguez; 3) Aragon.  
 22 On May 25, 2021 while plaintiff was housed at SVSP. Around  
 23 11:30 at the TC 2-yard, he was removing his sunglasses from  
 24 his eyes, when he was attacked by another inmate, (Brown)  
 25 said This is for the c/o's, and assaulted, plaintiff. Plaintiff  
 26 called for help, for over two minutes, stating "c/o help  
 27. help - I am being attacked, come and get this guy" the c/o



1 Defendant Gasca, was not properly monitoring the rec yard  
 2 after two long minutes another inmate named (Nguyen -  
 3 Bmo511) ran to the gate where the C/O Gasca failed to be  
 4 monitoring the yard and started calling for help, after  
 5 that plaintiff got the upper hand on (Brown) and held  
 6 Brown while still calling for help as (Brown) continued  
 7 to assault plaintiff, it was at that moment that  
 8 defendant C/O Gasca and the other two defendants - officers  
 9 approached the yard gate. Defendant Gasca told plaintiff  
 10 give Brown a chance "let him go." let go of Brown,"  
 11 Plaintiff told (Gasca) "Please open the gate, before "I" let  
 12 him go." Def' Gasca ordered all the inmates in the yard to  
 13 get down and told Plaintiff that he was "not going to open the  
 14 gate until you (Plaintiff) let (Brown) go." Plaintiff told defendants  
 15 "I've been calling for help for over 2 minutes, plus I don't  
 16 hear no alarm," (See; DKT. 10 at pages 2-4) (DKT. 10 - pg 6-18-20)  
 17 on May 25, 2021. Defendant Gasca was employed by CDCR  
 18 as a floor officer in TC2 and was responsible for monitoring  
 19 the recreational yard ("rec yard") but failed to be monitoring the yard.

20  
 21 1) Defendant (Gasca), Deliberate-indifference came by  
 22 way of (He left the rec yard unmonitored, and he knew  
 23 about the substantial risk and failed to respond  
 24 reasonably, He turned a blind eye to the risk of (Mc)  
 25 being attacked, He failed to protect mc from the  
 26 assault by inmate (Brown) on May 25, 2021.  
 27 2) Defendant (Coronado-Rodriguez) was employed by CDCR



1 as a floor officer in TC2 on May 25, 2021, and was  
 2 responsible for monitoring TC2 and maintaining order and security  
 3 on 5-25-2021, He also is responsible for responding to  
 4 alarms and radio code in the (susp.) T.C. 2 unit,  
 5 on May; 25, 2021, Defendant Coronado, was working in the  
 6 T.C. 2 unit when plaintiff was attacked, and Defendant  
 7 Coronado turned a blind eye to plaintiff safety by being  
 8 deliberate-indifference-to-plaintiff health and safety  
 9 by failing to intervene during the May 25, 2021 attack  
 10 on plaintiff by Inmate (Brown).  
 11 Defendant (Coronado) violated plaintiff's civil rights  
 12 by way of Deliberate-indifference, he knew the  
 13 attack was going on, and when he responded to  
 14 the radio code 1, and arrived on the rec-yard  
 15 secure gate port, he seen the attack still going  
 16 on and failed to intervene or do anything to stop  
 17 the attack on plaintiff, and failed to allow  
 18 plaintiff to use his medical appliances (Cane) D.M.E.  
 19 also he failed to stop Defendant Gasca from ~~off~~ his  
 20 willful and malicious intent, which violated plaintiff  
 21 8th Amendment rights.  
 22 3) Defendant (Aragon) was employed by CDCR as a (SGT) sergeant  
 23 overseeing the whole (TC2) on May 25, 2021, His (SGT)  
 24 duties on May 25, 2021 was ~~was~~ overseeing all of TC2  
 25 Defendant (Aragon) responded to the code 1 on the  
 26 radio, when Defendant got to the rec-yard secure  
 27 gate port he seen the attack still going on, and he



1 was on the other side of the gate with the other  
 2 two defendants Gasca, and Coronado, at which  
 3 time Gasca open the gate and the attack was  
 4 over, Defendant (Aragon) failed to intervene during  
 5 the May 25, 2021 attack on Plaintiff by Inmate (Braw).  
 6 (He) violated Plaintiff's civil rights by way of  
 7 deliberate indifference, he allowed Defendant  
 8 Gasca to run the show, and failed to intervene  
 9 during the May 25, 2021 attack on Plaintiff by Inmate (Braw).  
 10 also he signed off on a (RVR) Report Defendant  
 11 Gasca wrote up lying and attempting to cover  
 12 up his willful and malicious intent, which violated  
 13 Plaintiff rights, on 5-25-2021.

#### 14 Standard of Review

15 A federal court must conduct a preliminary screening in any case  
 16 in which a prisoner seeks redress from a governmental entity  
 17 or officer or employee of a governmental entity, 28 U.S.C. § 1915.  
 18 A(a). In its review, the court must identify any cognizable  
 19 claims and dismiss any claims that are frivolous, malicious,  
 20 fail to state a claim upon which relief may be granted or seek  
 21 monetary relief from a defendant who is immune from such  
 22 relief. Id. § 1915A(b)(1), (2). Pro se pleadings must be liberally construed,  
 23 *Balistreri v. Pacifica Police Dept.*, 90 F.2d 696, 699 (9th Cir. 1988).  
 24 \* To state a claim under 42 U.S.C. § 1983, a plaintiff must  
 25 allege two essential elements:

26 (1) that a right secured by the Constitution or laws of the U.S.  
 27 was violated, and (2) that the alleged violation was committed by  
 28 a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42 (1988).



# COGNIZABLE CLAIM BY DISTRICT COURT

ON 07-07-2022 The court served: Correctional Officers H. Gasca and M. Coronado-Rodriguez; and Correctional sergeant O. Aragon at (SVSP), also the court herein on (DKT 10-page 6; 18-20) Plaintiff states a cognizable deliberate-indifference-to-safety claim against Defendants Gasca, Coronado, and Aragon for failing to intervene during the May 25, 2021 attack on plaintiff by inmate Brown. SEE: (DKT 10-page 6 of 17; line 18-20.)

## Legal Claim.

1) EIGHT AMENDMENT-DELIBERATE INDIFFERENCE TO SAFETY  
THE Eighth Amendment's cruel and unusual Punishments clause requires that prison officials take reasonable measures to protect prisoners from violence at the hands of other prisoners. (SEE Farmer v. Brennan, 511 U.S. 825, 833, (1994))  
The failure of prison officials to protect inmates from attacks by other inmates or from dangerous conditions at the prison violates the Eighth Amendment when two requirements are met: (1) the deprivation alleged is, objectively, sufficiently serious; and (2) THE prison official is, subjectively, deliberately indifferent to inmate health or safety. Id. @ 834. A prison official is deliberately indifferent if he knows of and disregards an excessive risk to inmate health or safety by failing to take reasonable steps to abate it. Id. @ 837. SEE: DKT 10-p. 6-(8-17)



## Plaintiff's Claim on failure to protect

1 I plaintiff had a right to be free from physical assault  
 2 while housed at (SVSP) TC2 mental health program.  
 3 It is well established in an important supreme court  
 4 case called (Farmer v. Brennan, 511 U.S. 825 (1994)) ... which  
 5 found that "Prison officials have a duty ... To protect prisoners  
 6 from violence at the hands of other prisoner" under the  
 7 U.S. Constitution rights by way of The Eighth Amendment.  
 8 To show "Deliberate Indifference" = Plaintiff must show the  
 9 1) Guards knew that there was a substantial risk (Plaintiff)  
 10 would be seriously harmed, and  
 11 2) They failed to respond reasonably to protect (Plaintiff)  
 12 Plaintiff comes now, showing the proof of the  
 13 2-part test above herein, to prove how the defendants  
 14 failed to protect him, on May 25, 2021 from being  
 15 attacked by (Brawn) another inmate. (see, case: -  
 16 In Harper v. Durrette, 107 Fed. Appx. 444 (5<sup>th</sup> Cir. 2004) A court  
 17 clearly explained that it is not reasonable for guards to do  
 18 nothing <sup>while</sup> ~~at~~ a prisoner is being attack and or knew of  
 19 a substantial risk of injury.

### Summary of Plaintiff's Claims

21 Plaintiff was granted to proceed by this court herein on  
 22 his claim that All Three Defendants failed to intervene  
 23 during the May 25, 2021, Attack by (Brawn) on him (DKT 10.  
 24 page 6, Line 7, B. Legal Claim, Cognizable grounds.  
 25 Also plaintiff didn't Amend Complaint on the, Excessive  
 26 force, but has proof of the illegal use of force  
 27 which he will add into this as proof of his  
 28 claims and to show the defendants Mind-Set.

# PLAINTIFF SHOWING THERE IS A "GENUINE ISSUE" AND "MATERIAL FACTS."

STATEMENT OF WHAT IS A "GENUINE ISSUE." A genuine issue is just saying something happen. one need to have some proof that it happened the way it did. The way the plaintiff described, here is sworn statements, affidavits or declaration, deposition, transcripts, interrogatories, responses, and copies of CDCR officials documents, as evidence, and plaintiff's sworn statements. The "genuine issue" explained above is about a "material fact" A material fact will be presented, showing the Defendants are lying and making contradictory statements to cover up the civil rights violation.

## 'FAILURE TO PROTECT'

Defendants Deliberate Indifferents to what took place on 5-25-2021. Defendant (H. Gasca) set (Plaintiff Childs) up on 5-25-2021 and he knew what was going to happen and knew Childs was going to be attacked and turned a blind eye to the assault, and he seen the attack from the start and blatantly failed to intervene during the May 25, 2021 attack on Plaintiff by Inmate (Brown) also. Defendants, Aragon and Coronado, knew of the attack, and assist defendant (H. Gasca) in the willful and malicious intent, which violated Plaintiff's civil rights by way of violating Plaintiff's Eighth<sup>8</sup> Amendment rights under the Color of Law govern by the United States constitution.

On May 25, 2021 plaintiff was severely attacked by another inmate under the works of (3) C/O's working at (CDCR) (SVSP)



1 Plaintiff is a Layman at the Law, and has little access to The Prison  
 2 Law Library but will do his best as a pro-se prisoner - mental health  
 3 patient to present his case and produce evidence opposing  
 4 Defendants contradicting summary judgement and pray under the Law  
 5 This is granted in Plaintiff's favor. Due to (P.C. § 1256) case: Adickes  
 6 v. S.H. Kress & Co. 398 U.S. 144, 157, 160 (1970)

### 7 "Presenting Evidence"

8 on May 25, 2021, Defendant H. Gasca set Plaintiff up to be  
 9 attacked on 5-25-2021 Plaintiff was asked to go to yard by  
 10 Defendant Gasca, Plaintiff uses a cane and wears an ADA vest  
 11 for mobility impaired vest, and was housed at (SVSP) T.C-2, on 5-25-21  
 12 Plaintiff is Presenting evidence herein to show how the whole  
 13 thing took place (SEE: Exhibits # (A) 3 pages of DKT 10 (BACKGROUND))  
 14 on May 25, 2021, (I) Plaintiff walked at to The T.C-2 rec'  
 15 yard, as I walked through the short breezeway, Def' Gasca  
 16 secured me inside the yard and called last one for yard, giving  
 17 inmate (Brown) the green light to attack me, c/a Gasca was  
 18 The Defendant - c/o whom was suppose to be monitoring the  
 19 yard and inmates, but failed to do so by going back into  
 20 the unit and knowingly leaving the yard unmonitored.  
 21 DEFENDANT H. GASCA, Contradicting reports, statements, and  
 22 attempting to cover up the attack by inmate Brown.  
 23 Here Plaintiff is showing the undisputed evidence, by braking  
 24 down defendant Gasca's response to the incident which he claim was  
 25 not clearly unlawful (IN summary judgement on page 11 Line 13-B.)  
 26 AND (Defendants Gasca report claiming what took place on May 25, 2021  
 27 in summary judgement on (page 3 - Line 8-27) (page 4 - panel 12) (SEE: EX B  
 28 Which is 3 pages)



1 First IN THE SUMMARY Judgment on page 3. Lines 8-27)  
 2 Defendant Gasca stated he was observing yard when he saw  
 3 inmate Brown strike Plaintiff. This is a false statement  
 4 Defendant Gasca was not watching the rec' yard and  
 5 Didn't see what happen (SEE: Answer to Complaint and Demand  
 6 for Jury Trial Page 3. Lines 4-16) Defendant Admit (he) lacks knowledge  
 7 of what took place before plaintiff got attacked By Brown.  
 8 (SEE: Exhibit <sup>(C)</sup> Answer to Complaint & Demand for Jury Trial "Ex" C" 3pgs)  
 9 IN Defendant H. Gasca's Responses to Request for Admissions  
 10 set ONE, on page (2) Lines 1-28) see Exhibit <sup>(D)</sup> pgs (2)  
 11 Defendant is contradicting himself, and his statement,  
 12 Request for Admission 1: Line 8, Def' Gasca (Admit) HE was supposed  
 13 to be monitoring the A.M. rec' yard on 05-25-2021. But wasn't  
 14 IN Req. for Admission #2 = Line 13-) Defendant (Admit) He didn't see  
 15 how the incident between (Brown) & plaintiff (childs) started  
 16 on (5-25-2021) By (ADMITTING) TO THE REQUEST HERE IS PROOF HE  
 17 LIED.

18 UNDISPUTED FACTS: STATED HE SAW how it started That's A lie  
 19 and TO PROVE HE WASN'T monitoring the rec' yard (SEE: Def' Gasca  
 20 resp. to Pl's req. for Admiss. set TWO; Page 2, Line 7-11) Admission #2) He  
 21 (denied) the request. Contradicting statements and Def' is  
 22 lying, to cover up his illegal act that violated plaintiff's right  
 23 He was asked to Admit that he seen how the whole incident on 5/25/21  
 24 took place: (Exhibit <sup>(E)</sup> Def' Gasca's resp. to Pl's req for Adm. set Two)  
 25 IN set one of Admission (page 2: Line 9-14) Gasca; (Admit) TO THE request  
 26 for Admission; IN set TWO (page 2: Lines 7-11) Gasca (Deny) TO THE  
 27 same question/request, set 1; Admit That you didn't see how the  
 28 incident between inmate Brown and child's started on 5/25/21 (ADMIT)





1 IN SET TWO page 2-Lines 7:11) Admit that you seen how the whole  
 2 incident on 5/25/2021 between Brown & Childs take place. (DENY)  
 3 SEE both Exhibits (D,) Ex (E), req for ADMISS set ONE & SET TWO.  
 4 AS 'UNDISPUTED' proof AND FACTS, There is a 'genuine ISSUE'  
 5 IF Defendant GASCQ seen how the whole incident stated  
 6 as he wrote up and claimed why he didn't activate his  
 7 alarm when He stated "He saw Brown strike plaintiff 1ST  
 8 and if Brown hit Childs/plaintiff first, why didn't he write  
 9 Brown up for attack on plaintiff. He covered The Attack up  
 10 By writing up both inmates for mutual combat on 5/25/2021.  
 11 Here in Defendants production of Documents They produced two  
 12 papers which covers code rules and policies, 1-3271. Responsibilities of  
 13 employees, page 165; and 3286. Controlling and reporting fights, <sup>1 page</sup>  
 14 paper page 171, and plaintiff is attaching Article 22-Employee Discipline  
 15 1 page (Exhibit (F)) 3 pages:  
 16 page 1. 3271. (Responsibilities of employees; He is proof all (3) Defendant  
 17 is responsible for The safety and safe custody of The inmates confine  
 18 in The institution.  
 19 page 2) 3286. controlling and Reporting fights; The Defendant GASCQ failed  
 20 at his duty under The color of Law to protect plaintiff and failed  
 21 to properly file a legal report, and failed to intervene during  
 22 the 5/25/21 attack on plaintiff.  
 23 page 2) 3286. IS a code legal Document. The UNDISPUTED FACT  
 24 Here is stated on THIS page "Employees who observe The fight will  
 25 prepare a written report stating clearly everything they observed  
 26 and will submit a RUL report". The employee who renders the report  
 27 should if possible, state who was the aggressor and NAME(s) of  
 28 aggressors, and reason for The fight. Defendants, GASCQ, covered



1 This violation up by not NAMING Brown as The Aggressor  
 2 and by not clearly stating why it started. This Exhibit  
 3 3286 is undisputed facts and a Rule and in his duty to  
 4 follow, But he didn't,

5 Article 22 - Employee Discipline under lined states Defendants all  
 6 have a duty as an employee of (CDCR) to protect the innocent  
 7 against attackers. Plaintiff was attacked and Defendants <sup>Failure</sup> ~~Star~~  
 8 to protect violated his civil rights. Undisputed facts in the 3  
 9 pages Exhibit # (F)

10 SEE Plaintiff's (CHIDS, 8 page Declaration) as undisputed fact  
 11 and evidence of this violation against him, while he was  
 12 housed at susp T.C. 2; and in the plaintiff's Declaration on  
 13 page 5, Lines 20-28; page 6-8; stated what took place on  
 14 5/25/2021 (Exhibit # (G) Pages 8, CHIDS Declaration)  
 15 "UNDISPUTED FACTS" ON 5-25-2021." Continuing on page 3  
 16 of Def's summary Judgment motion how Defendant Gasca lied and  
 17 is lying, Def Gasca stated in this line 18-28, on pages <sup>3-4 lines 1-12</sup> ~~3~~;  
 18 #, pages 2, While plaintiff had Brown in a chokehold, Brown was  
 19 screaming for help and Begging plaintiff not to choke Brown out  
 20 and Def Gasca announced the fight on his radio, and how Gasca  
 21 Threw an OC blast grenade to stop the fight, 3 upon seeing  
 22 Gasca deploy the OC blast grenade, it stop the fight,  
 23 and how the other Defendants Coronado and Aragon responded  
 24 to the alarm, but when they arrived plaintiff and Brown had already  
 25 stopped fighting and separated.

26 All This is a lie and I plaintiff will show proof of all (3) Def's  
 27 contradicting statements and lies, and There attempt to cover  
 28 up this story, with undisputed facts, how plaintiff was attacked



1 and Def' Gasca set this whole incident into motion and had Def's  
 2 Oregon and Cerenado attempted to cover it up to protect Def'  
 3 Gasca from getting caught.

4 HERE IS a statement by a witness, That was at yard on 5-25-2021  
 5 and due to I am incarcerated I am using a 602 Health care

6 form, a non-party statement as Evidence That strongly supports  
 7 plaintiff's version of the important facts showing There is a real  
 8 dispute. Here I am providing This Exhibit # (H) 2 pages of

9 (Vaughn Edward - BA3720) statements to what took place on 5/25  
 10 and his signature is on this; Mr. Edward was at the rec' yard on 5/25

11 Mr. Edward statements in these two pages will show  
 12 undisputed facts that Defendants are lying and trying to cover up

13 This civil Right violated against plaintiff.  
 14 Defendant Gasca stated in (Exhibit # (B) on page 1 of summary judgment

15 lines 18-25; plaintiff had Brown in a chokehold Brown was screaming  
 16 for help and Begging plaintiff to stop; Def' Gasca is lying and

17 Here is (Mr. Edwards) a non-party statements signed as proof on the  
 18 record. Mr. Edwards, as child's/plaintiff witness, 1, He stated it

19 took place on The rec' yard and stated child's and Brown, 2) He stated  
 20 Brown walked up to child's and attacked (plaintiff child's) started

21 swinging by the tables, 4) He stated child's was only defending his-  
 22 self and fought back and gained the upper hand, placing Brown in a

23 headlock, 5) AND CALLED FOR THE C/O's, TO ASSIST him with Brown  
 24 DUE TO THE ATTACK. THIS IS PROOF plaintiff was calling for help not

25 Brown as Def' Gasca claimed and is lying about (Also see Ex 2  
 26 # (H) page 1; Ex # (I) page 2; Ex # ( ) pg AS to plaintiff called for help

27 As to Edwards page 2; HE stated 1) He can go without witnessing for the  
 28 attack on The yard, 2) and He stated He seen what happen, 3) child's was truly



1 defending himself at all times and the force of violence. All this is  
 2 clearly "undisputed facts" to there is an "genuine issue" and I am  
 3 asking the court to look at Mr. Edwards statements as  
 4 proof Def's Gasca and the other two are lying and it  
 5 contradict their statements herein. Mr. Edwards 2 pages  
 6 statement clearly state plaintiff's version of important facts  
 7 on how the 5/25/2021 attack on plaintiff started and ended.  
 8 Also plaintiff wrote a 602 complaint, after the incident on 5/25/21  
 9 stating what took place and turned it in on 5/25/21 and this  
 10 is how plaintiff commence to protecting himself from  
 11 future attacks and to bring attention to the attack and how  
 12 the whole attacked started and how CDCR officials and CDCR  
 13 Administration and CDCR warden, Sacramento, office of appeals and  
 14 CDCR Director responded to the 602 and exhausted plaintiff's  
 15 remedies (Exhibit # (I) 14 pages of plaintiff's 602 complaint, and exhaust  
 16 remedies.  
 17 Def' Gasca lied in all his reports and here in this Ex (I) which is  
 18 (14) pages as proof and ("undisputed facts") to this violation and to  
 19 show there is an "genuine issue".  
 20 The first (2) pages is the (602) another declaration by plaintiff as to  
 21 how the attack happen and proof. The 11th party (Edwards) (Ex # H)  
 22 statements of 5/25/2021, and how plaintiff called for help for over  
 23 two minutes, proving Def' Gasca failure to be monitoring the rec  
 24 yard. pg 1, states on 5/25/21 (Brown) attacked him while removing his sun-  
 25 glasses. 2<sup>#</sup> and stated this for the 4<sup>#</sup>'s, and 3<sup>#</sup> actions - monetary compensat  
 26 Plaintiff witnesses spoke to. How all (3) Def's violated his rights and he  
 27 was a A.D.A patient. The 5/25/21 Date & plaintiff NAME; (pg 2<sup>#</sup>) covers how  
 28 he was attacked. 5<sup>#</sup> How Def's failure to monitor the yard and no





1 c/o's was watching the yard and how Def' Gasca was in the  
 2 unit. <sup>6#)</sup> How plaintiff called for help over 2 minutes, How plaintiff  
 3 told the Def's to come get Brown once they arrived and how  
 4 Def's enter the yard and throw the Bemo 6x6 blast at plaintiff  
 5 after the attack on him was over. <sup>7#)</sup> How he wanted his witness  
 6 spoke to Vaughn Edwards BA3720, Clark-ET3520 ect. <sup>10#)</sup> How  
 7 Brown made a statement he was paid. <sup>11#)</sup> How his rights were  
 8 violated.

9 page <sup>13#)</sup> shows SVSP office logged the (2) page 602 with log # 12198  
 10 DATED 6/2/2021. (pages 4-5) show grievance response for 5/25/21 attack  
 11 by the warden of SVSP (CDW) A (E Barla). (pages 6-10) shows what  
 12 plaintiff stated about 5/25/21, and (Edwards Vaughn-BA3720) as  
 13 his witness, also how Def' Gasca report was dropped due to  
 14 plaintiff defending himself. 6-7 (pg 8-10) show CDCR admitted  
 15 defendants violated plaintiff rights, due to CDCR responded to  
 16 CHUDS 602 (Granted) decision (Granted) for the 5/25/2021 incident  
 17 (Granted) and the decision exhaust his remedies with CDCR. By  
 18 M. Moseley (title-Chief) on (10/01/21) (Granted) also pg 10 Granted  
 19 outside investigation into 5/25/2021 (pages 11-14) show on pg 11  
 20 (Granted) by Sacramento Appeals, log # 121983. (pgs 12, 13, 14, show 3<sup>rd</sup>  
 21 level decision on appeal Granted. By the CDCR Director Howard E.  
 22 Moseley as to Def's violating plaintiff's rights. All this show  
 23 (UNDISPUTED facts) and are evidence to the 5/25/2021 violation  
 24 HERE IN Exhibit <sup>14#)</sup> (B) on page 3-4, on on page 4-Lines 1-8 in  
 25 Def's motion for st.

26 Def's stated at 11:44 A.M. Def's (Coronado and Aragon responded to  
 27 Gasca's alarm but when they arrived Plaintiff and Brown had  
 28 already stopped fighting and separated from each other (see: Doc



1 Coronado-Ded. 11 6; Aragon Ded 11); Here all 3 def's are lying  
 2 and Their statements are contradicting and don't add up  
 3 to Their reports and Plaintiff is showing undisputed  
 4 facts here; Plaintiff stated in (Exhibit #1, pg 2 Lines 24-26  
 5 DKT 10) that he noticed Def's and all (3) Def's that is at the yard  
 6 yard. Id. Plaintiff told The officers "Help, hit your alarm; on (pg 3)  
 7 DKT 10 Lines 1-28) Plaintiff called for help for 2 minutes and on  
 8 Line 10 after The o/c can grenade was Thrown Def' Gasca  
 9 and Coronado approached him (in Plaintiff's Decl' he stated  
 10 a group of officers including Def's responded (in Ex #1 H  
 11 Vaughn Edwards) stated THE correctional officer(s) said prone  
 12 out and threw the o/c. can Bomb.)  
 13 HERE IN EXHIBIT # (5) 3 pages, of CDCR Incident report package of the  
 14 Attack on Plaintiff True CDCR Documents covering CDCR lies  
 15 to protect defendants and showing proof of contradicting  
 16 statements.) THE pages 1-3.) pg 1, show Def' Aragon, was a  
 17 response supervisor and SGT on 5/25/21) pg 2; shows (Def' Coronado  
 18 was Responder, on 5/25/21) pg 3, shows Def' Gasca, <sup>was</sup> Primary officer,  
 19 escort, and used force, and Deployed oc-Blast Grenade, all  
 20 3 Def's were involved in this civil rights violation; and  
 21 Attempted to cover up Their illegal actions and evil  
 22 intent, mind state to due plaintiff harm (undisputed facts  
 23 HERE on pg 4) Def' Aragon; STATED "when I arrived at The T.C-2  
 24 rec yard and witnessed (Brawn) 3 plaintiff (chicks) face down  
 25 in a prone position with handcuffs placed on them, HERE He is  
 26 STATING WHEN HE got TO The yard plaintiff had  
 27 hand CUFF'S ON,  
 28 pg 5) Def' Coronado; STATED upon arrival HE observed (chicks) 3 (Brawn)



1 on the gravel prone out, and ("HE") coronado ran over to C/o Gasca  
 2 as he was standing next to chills and placed him (chills)  
 3 mechanical restraints (handcuffs (pg 6: Def' Gasca: stated  
 4 (He) Gasca Deployed his oc Blast grenade and Due to his focus on  
 5 plaintiff he didn't see (Brawn) get any exposure to the oc Blast  
 6 once it was safe and with responding STAFF officer Def'  
 7 Coronado and (him) Gasca approached inmate chills. As C/o  
 8 Coronado covered (him) while he Gasca cuff Chills.  
 9 (pg 7) is THE (RVR) rules violation report for 5/25/2021 (STATING  
 10 Def's GASCA, said Him and responding C/o Coronado approached  
 11 CHILLS),  
 12 ALL (3) Defendants STATEMENTS are lies and They contradict each  
 13 other STATEMENTS as They Don't all add up to what happen.  
 14 Here plaintiff is about to show undisputed facts.  
 15 (IN EX\*(B) pg 2, Lines 1-7 Summary Motion) Def's Coronado, and Aragon  
 16 responded to Gasca's alarm but when (they) arrived plaintiff & Brawn  
 17 had already stop fighting and seperated (undisputed facts) How  
 18 could this Be if Defendant Gasca stated on page 6, of Ex\*(J)  
 19 IN THE Incident Report packet (once it was safe and with  
 20 responding STAFF officer Coronado and I approached chills, and  
 21 he then placed chills in cuffs. 1) contradicting STATEMENT  
 22 ALSO ON Pg 7 of Ex\*(J) Def' GASCA STATED "ONCE IT WAS safe with  
 23 responding STAFF officer Coronado. He approached inmate child  
 24 How could defendant Coronado and Def' Aragon respond  
 25 together but when they arrived both inmates had stop  
 26 fighting? ??? SEE EX\*(B) Lines 1-7, But THE "Undisputed  
 27 fact" is on pg 4 of Ex\*(J) of incident report package Def' Aragon

1 Clearly STATES: "I arrived and witnessed INMATE child's and Brown  
 2 prone at Both with handcuffs placed on them.) THE Contradict  
 3 COMES DUE TO ON Pg 5, of EX\*(J) Coronado STATES IN THE  
 4 SAME report (incident report package) (UPON arrival HE  
 5 observed INMATE child's & Brown prone at, and HE ran over  
 6 TO Def' GASCO as HE was standing next to child's and  
 7 placed handcuffs ON him. (BUT THE QUESTION HERE IS  
 8 Def' GASCO STATEMENT which any Trial jury would?  
 9 ON page 6 of EX\*(J) the same incident report package, Def'  
 10 GASCO STATED (ONCE it was safe and with responding staff  
 11 officer Def' Coronado HE approached child's and placed him  
 12 IN CUFFS.  
 13 Def's are all lying. 1. Def' Gasco admit to him and responding  
 14 officer Coronado approached plaintiff child's and, also admit  
 15 TO Coronado provided coverage, while he placed child's in  
 16 CUFFS. HERE Defendant is (ADMITTED) & admitting to the  
 17 undisputed Fact Def' Coronado seen the attack on  
 18 plaintiff and HE admitted to HE Didn't open the yard  
 19 gate until Coronado was there and IF that's the case  
 20 Coronado seen the attack and had TO be present  
 21 TO see Def' GASCO Deploy the OC Blast when the attack  
 22 was over, Def's, STATEMENTS IN EX\*(B) pg 2. Lines 1-7, is  
 23 proof They all are lying and How could (Coronado and  
 24 Aragon arrive and see both inmates stepped fighting  
 25 BUT Def' GASCO, STATED HE waited on Coronado  
 26 before it was safe to approach child's. Therefore Def' Aragon  
 27 was with them and They all witness the attack



1 Here Plaintiff will continue to prove The "Undisputed Facts"  
 2 How all Three Def's are lying and their statements are contradictory  
 3 and how they all tried to cover up the violation of plaintiff's  
 4 civil rights, and the "Genuine issues" of Plaintiff being attacked  
 5 By (Brown) and the Def's failure to intervene on 5-25-2021.  
 6 And THE #1 Undisputed FACT HERE IN THIS WHOLE Motion is DEF  
 7 H. GASCA Didnt see how the Attack started; Due to he left  
 8 THE REC' yard UNMonitored and he claim to have been  
 9 Monitoring THE REC' yard, ONCE AGAIN (SEE: Exhibit\*(E) pg 2 line  
 10 1-28) on Reg 1 Def' Gasca (Admit) He was supposed to be Monitoring  
 11 The A.M. rec. yard on 5/25/2021, BUT HERE IS Undisputed Proof AND  
 12 Facts on Lines 9-14) on Reg 4 Admiss\*2) Def' Gasca (Admits) He didn't  
 13 see how the incident on 5/25/2021 started. Therefore He was  
 14 not Monitoring THE REC' yard and Failed to protect plaintiff  
 15 and left his duty to secure the safety of plaintiff in harms  
 16 way.  
 17 HERE Plaintiff will continue to show all (3) def's contradicting  
 18 statements as to what happened and whom was on the crime  
 19 scene on 5/25/2021 By presenting evidence in all (3) def's statements  
 20 and their own words, and admissions and CDCR Reports  
 21 HERE Def's H. Gasca (Admit) in (Exhibit\*(D) page 1 of Gasca's resp to Reg  
 22 for Admiss, set one Lines 19-22, (HE) Def' Gasca (ADMIT) THAT him  
 23 and Coronado approached child's together on May 25, 2021 (Admitted)  
 24 BUT IN (Exhibit\*(K) pg 1 of Def' H. Gasca resp to Pl's Reg for Admiss, set one  
 25 Lines 8-13 (Admiss No 19) Gasca; also ADMIT, but STATED that he  
 26 first approached plaintiff after both inmates were down and that  
 27 after that Def' Coronado approached to assist Gasca (These are  
 28 Contradicting STATEMENTS Due to Gasca Admitted That him and



1 Coronado approached child's (TOGETHER) ON MAY 25, 2021 (SEE EX  
 2 \*(D) page 8. Def' Gasca's Resp' TO REQ for ADMISSION Set ONE.  
 3 How Can Def' Coronado, approach plaintiff with Gasca  
 4 but in another (exhibit) \*B) <sup>pg 2</sup> arrived with Aragon; BUT  
 5 in (Exhibit \*J) page 4 of the incident report package. Def' Aragon  
 6 (STATED IN his own words. He arrived at The T.C.Z rec yard and  
 7 witnessed both plaintiff (child's) and (Brown) faced down in a  
 8 prone position with hand CUFFS on. BUT Def' Gasca stated  
 9 in his own words in The same (EX \*J) pg 7, and pg 5 (once it was  
 10 safe and with responding staff officer Coronado and I  
 11 approached INMATE child's, and Coronado provided coverage I  
 12 placed child's in hand CUFF'S. (Coronado couldn't have been  
 13 with The SGT Aragon when he arrived Cause plaintiff  
 14 and Brown illegally was in CUFF. but if you see Gasca's  
 15 report on pgs 5 & 7, Plaintiff didn't get placed in cuff's  
 16 until Coronado ran with Gasca and held coverage over  
 17 child's. 1) Gasca is stating he and Coronado placed  
 18 plaintiff in cuff's. 2) Exhibit \*B) pg 7 Lines 1-7, states Aragon  
 19 and Coronado arrived together. Contradicting statements  
 20 HERE. H. Gasca's STATES HE and Coronado approached child's  
 21 together on 5/25/2021. (Admits) TO THAT (EX \*D), pg 8 Admissions set one  
 22 HERE H. Gasca's STATED: first (He) Gasca approached (child's)  
 23 plaintiff after both were down <sup>After</sup> that Coronado approached  
 24 to assist, Gasca.  
 25 HERE IN (Exhibit \*D) <sup>pg 2</sup> of set one, Coronado's, Resp to pl Req for Admiss 2pg  
 26 Def' Coronado, (Admit) THAT HE ran over to (Def' Gasca) while he was  
 27 standing over plaintiff (child's) on may 25, 2021 (See lines 11-15) and on  
 28 lines (16-19) of this page: Def' Coronado, Admits being with Gasca as he



1 placed hand cuffs on plaintiff on 5/25/2021 But The Def'  
 2 Gasca Contradicting statement comes in (ex\*(D) pg 1 of Def'  
 3 Gasca's Resp to req for Admiss' set out, Lines 20-22) Req for Admi  
 4 #10, Response to Admission 10) Def' Gasca (Admitt's) That him and  
 5 Def' Coronado approached Childs together on may 25, 2021  
 6 HERE in Exhibit\*(K) pg 1 of set two of Def's Gasca's Responses to pl' Rep for Admi  
 7 Lines 1-14) Def' Gasca (Deny) That him and Coronado both ran  
 8 to where I'm Childs was on 5/25/2021. But on Lines 5-7,  
 9 Def' Gasca STATED "He did not enter the exercise yard until after  
 10 plaintiff released inmate Brown and had pruned out. Def' Coronado  
 11 did not Arrive on scene until after the fight was over and  
 12 plaintiff had pruned out.  
 13 Defendants Gasca, Coronado, and Aragon all have told a  
 14 different story and have contradicted each other Staten-  
 15 ments in these Exhibits.  
 16 Here in Exhibit\*(L) pg 1, set one of Aragon's Resp'to Interr, Lines 1-18  
 17 Def' Aragon STATED when He arrived to the incident, Plaintiff had  
 18 already been restrained Also on (Lines 18) He also stated when he  
 19 arrived to the incident, plaintiff had already been restrained.  
 20 How is This True when aragon arrived to the incident with  
 21 Def' Coronado, but Coronado and Gasca Approached childs  
 22 and placed him in restraints/cuffs, HERE shows a real  
 23 UNDisputed fact, and a genuine issue.  
 24 HERE is 'UNDisputed facts" to prove (Def' H. Gasca) lied and  
 25 wrote a false Report, to cover up his illegal act on may 25, 2021  
 26 and here plaintiff is showing his injuries caused by  
 27 def' Gasca ways and actions.  
 28 THIS (Exhibit\*(M) 10 pages, covers The incident on 5-25-2021



1 and How Defendants (Gasca, Coronado, and Aragonis; supervisor  
 2 recruited There false reports and how plaintiff version  
 3 of what took place on 5/25/2021. Add up to TRUTHFUL  
 4 facts and undisputed facts to prove there is a  
 5 genuine issue, here and this should go to trial so  
 6 plaintiff could show his civil rights were violated  
 7 do the CDCR officials violated his United States constitution  
 8 rights by failing and There failure to intervene on 5/25/2  
 9 when Plaintiff was attacked By Defendant H. Gasca's  
 10 incarcerated.

11 Ex\*(M)(pg 1 of 10) is a copy of the incident report package; showing  
 12 Plaintiff's child's was wrote up for fighting, and it shows  
 13 plaintiff's injuries which are reported as proof he was  
 14 injured do to Defendants failure to protect him and  
 15 for there failure to intervene, The injuries are to  
 16 plaintiff's legs/Left knee, with Abrasions; Def Gasca wrote  
 17 plaintiff up for a fight and placed (him) as the suspect.

18 Ex\*(M)(pg 2 of 10) is a copy of CDCR (Rule violation report) showing, Def'  
 19 Gasca, wrote (Brown) a non-party, up for fighting, when (Brown)  
 20 attacked (Childs) plaintiff on 5-25-2021; and Def' Gasca  
 21 wrote in this (RVR) report HE" saw INMATE Brown strike, ILM  
 22 Childs first. (Also; Def' Gasca stated "once it was safe and with  
 23 responding staff officer Coronado and (I) approached ILM Childs and  
 24 placed ILM Childs in hand cuffs")

25 Ex\*(M)(pg 3 of 10) shows All (3) Def's supervisors, which is The CDCR  
 26 (Svsp) (LT) for The T.C.2 unit. a non-party (J. Maturino) narrative  
 27 of what took place on (5/25/2021) which states clearly The T.C.2  
 28 Floor officers, which is (Gasca, Coronado) were observing T.C.2





1 afternoon recreational yard, and Brown & Childs began to engage  
 2 in a fight, striking each other with closed fist.) and Both inmates  
 3 were wrote up for fighting "UNDISPUTED FACTS". This is  
 4 a lie, because (Brown) hit plaintiff first, which Def  
 5 Gasca do admit to in all the exhibit's herein, and  
 6 Def' Gasca and all of svsp officials has attempted to  
 7 cover up this attack, by claiming it was mutual  
 8 combat - fighting. When Brown was the aggressor  
 9 Ex\*(M)pg 4 of 10) is a real CDCR form called a 7219) which  
 10 is a medical report, to document injuries, for unusual  
 11 occurrence, which is given to inmates with There (RVR)  
 12 (write-up) Rules violation report, which is done by  
 13 CDCR/svsp, medical employees. on 5/25/25 it was done by (RN  
 14 o, Zavala (Inst# 0# 286893) and it clearly show (Plaintiff's  
 15 CHILDS - F. 14068) NAME, CDCR NUMBER, the date - 5/25/2021 / T.C.2.  
 16 unit @ svsp. Most of all it shows "UNDISPUTED FACTS" TO  
 17 this "Genuine issue". Plaintiff's (CHILDS) STATEMENT and injury  
 18 1) plaintiff's statement of what happen on 5/25/2021, (Brown) Def  
 19 Gasca's Henchman) "HE JUST ATTACKED ME AND I restrained  
 20 Him". THE (INJURY) FROM THIS civil actions violations" which  
 21 shows 2) Knee - Left Knee Abrasion/scratch, caused both by  
 22 Def' Gasca evil intent.  
 23 Ex\*(M)pgs, 5, 6, 7, 8, 9, front and Back information of the Disciplinary  
 24 Hearing Results. For the RVR, Report Def' Gasca, and  
 25 Aragon wrote up and approved attempting to cover up  
 26 what happen on 5/25/2021. This Report is UNDISPUTED fact  
 27 TO SHOW THE "Genuine issue" has arisen, due to All 3 Depts  
 28 Aragon, Gasca, Coronado, higher uppers, which is There supervisors



1 and overseer's, Bosses, 1. THE LT. R. Martinez, 2 (AW) THE SUSP  
 2 Head Warden, J. Hughes, whom make the final decisions  
 3 and comments, to and on all reports.

4 Ex\*(M) pg 5 of 10 THE first page is THE disciplinary hearing results)  
 5 on this color paper. It shows, THE date (5:25:2021) of Def's GASCA's  
 6 (R/R) outcome (due Process) PLAINTIFF'S NAME CHILDS is on THE (DHR  
 7 What Def' GASCA wrote PLAINTIFF up for (specific act: fighting, on  
 8 5/25/21 which is violation DATE. ALSO THIS (DHR) Report shows  
 9 Defendant's (O. Aragon, approved the report and was Def' GASCA's  
 10 supervisor and it shows Def' GASCA wrote THE R/R on plaintiff  
 11 This page covers the (due Process - on front and back of each  
 12 pg of 5-9) on THE back page. Hearing - it shows PLAINTIFF was  
 13 a statement, He was present, in good health ready to proceed.  
 14 UNDER (DISABILITY) Here it shows PLAINTIFF is (Mobility)  
 15 and uses a cane, wears a vest) AND PROOF I had a cane and  
 16 a vest, and on (5/25/2021) I was A.D.A, and had my medical  
 17 appliances the day of the incident, and attack By Brown  
 18 whom was ordered to attack plaintiff.  
 19 on (Exhibit\*(M) pg 2, the back page of 2 of 10) under (Investigative  
 20 employee) additional information, STATES (plaintiff is (DNMC) which  
 21 is a D.M.E. a medical appliance of (cane, vest) THIS is proof  
 22 of UNDISPUTED FACTS. Plaintiff had his cane and vest  
 23 on (Exhibit\*(M) pg 3 on the back page, is "UNDISPUTED FACTS."  
 24 THAT SHOWS THIS is a real CIVIL RIGHTS violation and  
 25 this motion has "Genuine Issues". . . . HERE PLAINTIFF  
 26 IS ABOUT TO PROVE THAT THE DEFENDANT'S, GASCA, CARANOA  
 27 ARAGON, LIED IN THERE REPORTS and TO THIS JUDGE, and  
 28 TO THE COURTS. BUT THE MAIN ISSUES HERE IS ALL



1 THREE Def's failed to intervene when Plaintiff was attacked  
 2 By Def' Gasca's Henchman INMATE Brown, on (5-25-2021)  
 3 THE PROOF (Exhibit # (M) pg 3 of 10, on THE BACK pg. UNDER (PLEA-  
 4 STATEMENT: Plaintiff (CHILDS) went to THE RVR-Hearing, for THE  
 5 RVR, Def' GASCA wrote up on plaintiff for fighting INMATE  
 6 (Brown) on (5-25-2021), AND was asked by THE (LT, R. Martinez  
 7 How do he plea, (Plaintiff pled (NOT GUILTY) and made a statement  
 8 plaintiff statement? Comments: "I was attacked, I was just holding  
 9 him down. I was defending myself."  
 10 under findings: Plaintiff RVR that Defendant Gasca wrote  
 11 up, and Def' Aragon approved, to cover up there illegal act  
 12 was dismissed, Plaintiff CHILDS, was found (NOT GUILTY)  
 13 based on a preponderance of evidence. BY, THERE BOSS, and  
 14 supervisors over C/O's, SGT's; which was THE Lieutenant, of the  
 15 SNRP, of T.C. 2, Hearing official. (R. Martinez; LT) on June, 14, 2021.  
 16 UNDisputed facts: To Prove THERE IS genuine issues. Look at  
 17 THE (EVIDENCE) on THIS page (3) on THE BACK, under 'Comments'  
 18 THE Lieutenant, which is Def's BOSS/supervisor, Here (Evidence:  
 19 supporting THE findings: Comments: STATED: Plaintiff Childs is not  
 20 Guilty; and THE (LT/SNOE "THE SNO elects to dismiss in the interest  
 21 of justice for THE following reason: 1) The RVR supports the subject  
 22 (CHILDS) plaintiff's defense that he was attacked THE SNO notes every-  
 23 one has the right to defend himself against unlawful injury"  
 24 UNDisputed facts, comes by way of Def's Gasca, Aragon, lied  
 25 and THERE BOSS didn't cover for them but STATED, CHILDS  
 26 was attacked, and has a right to defend himself. Which, Def'  
 27 GASCA, lied and stated & wrote plaintiff up "for the act of  
 28 fighting". HERE see (Exhibit # (M) pg 3, The back-side to see



1 Lieutenant (R. Martinez); title LT: declaration/comments in the  
 2 EVIDENCE; AS "UNDISPUTED FACTS" HERE IN AS TO THERE  
 3 Shall be an "Genuine Issue". Here Do To All Three Dec  
 4 Aragon, Gasca, Cornado, lied, in CDCR's reports, and in  
 5 Admissions, and other documents to attempt to cover up  
 6 there sadistic, mind-state and violations, But There  
 7 superiors, higher uppers, such as Lieutenant, & Wardens,  
 8 proved plaintiff version of what took place on 5-25  
 9 2021 is true and the defendants supervisors, Dec'd by  
 10 LT, (R. Martinez) clearly states "subject (CHILD) was  
 11 defending himself from being attacked, (LT:) STATED,  
 12 The SHO NOTES everyone has the right to defend himself  
 13 against "UNLAWFUL INJURY." SEE (LT) declaration; to make a  
 14 final decision as to Plaintiff's version, to undisputed  
 15 facts.

16 Here is (Exhibit\*(M) 4.5 pg. 475 of 10; The back of Page 4, page 4  
 17 Shows Hearing official name; R. Martinez) and Date (6/14/2021)  
 18 The back of pg 4, shows (finding (By CDO; Warden: (Not Guilty)  
 19 page (5) under (CDO) = (Chief Disciplinary Officer) comments:  
 20 STATES (APPROVED) BY THE SUSP I.C. 2 (AW) J. Hughes; 6/16/21  
 21 This Proves; Gasca, and Aragon, lied and attempted  
 22 to cover of (Brown's) attack on Plaintiff's child  
 23 on 5/25/2021,  
 24 This 10 page front and back exhibit; is undisputed  
 25 facts to Plaintiff's civil complaint and how (he)  
 26 is proving there is an "genuine issue".  
 27 This Exhibit\*(M) page 10 of 10) is A, CDCR-ADA form, which  
 28 shows, Plaintiff has at all times, dates, here in this





1 whole matter from May 24, 2021 and May 25, 2021, up until  
 2 2023, has used and did use, and wear a Mobility  
 3 impaired Disability vest, (Permanent) and used a cane  
 4 to get around, and had a for sure special cuffing  
 5 chrono.

6 on May 25, 2021 plaintiff went to that staged rec'  
 7 yard not knowing what was going to happen to him,  
 8 and was wearing a ADA vest and had his D.M.E  
 9 cane, and did call to SGT (Def' Aragon about  
 10 he can't be cuffed to the back, and it states  
 11 The undisputed facts in (Exhibit# (M) pg 5 on the  
 12 back page. under (Disability.) Pl's is (Mobility)  
 13 impaired, on pg 2. Under Investigation Additional  
 14 information (DNMC) which is plaintiff uses a  
 15 cane, & wear a vest to get around, and has  
 16 The (LT) (AW) warden signature on it as proof  
 17 see: (Ex# (M) pg 10. (Even though the date is off  
 18 during Trial plaintiff can prove on that date  
 19 of 5/25/2021. He at all times, dates, were, and was  
 20 with his cane, vest, and has proof it was well  
 21 known, to all (3) defendants. He had a chrono  
 22 for 1) special cuffing, 2) cane, mobility vest,  
 23 and did have surgery on his ~~RE~~ Right eye  
 24 and was a mental patient.

25 Here in (Exhibit# (N) 4pg, Def' H. Gasca's Resp' to Pl's Req. for Admiss  
 26 set Two, pg 4, lines 1-4;) Def' Gasca, was asked if he told JIM  
 27 Brown to stop attempting or stop attacking, child's (plaintiff) on  
 28 5/25/21. He (Deny) the request. After he stated he seen

1 Brawn hit child's first. (on lines 7-12,) Def' Gasca  
 2 (Admit) he knows the difference between a fight and a  
 3 battery. He did admit insofar as he knows there is  
 4 a difference between mutual combat and a battery on  
 5 a person, IF SO THE (UNDISPUTED FACT) here is  
 6 why did (he) Def' Gasca, write plaintiff's child  
 7 up for fighting, and not the victim of an  
 8 attack or (Brawn) up for battery,  
 9 IF Def' Gasca knew or claim to have known the  
 10 difference. He was try to cover up the attack  
 11 by stating both inmates were guilty of the  
 12 act of fighting. THE Warden, and LTC signed  
 13 off in plaintiff's favor as to he was attacked  
 14 and Dismissed Def's Gasca RVR, Due to Brawn  
 15 attacked child's. THIS shows a "genuine ISSUE"  
 16 Here in (Exhibit#(O)) is 3 pages of (CDCR) susp custody  
 17 operations and operations manual; pg 1 shows (D.M.E.)  
 18 canes usage and custody shall not remove or deny  
 19 plaintiff or inmates from; (pgs 2-3) shows the rules  
 20 of CDCR 5020.6 use of restraints (hand cuffs & waist  
 21 restraints) and 5020.18. Reporting allegations of excessive  
 22 force, THIS shows Defendants failed to allow child's  
 23 to use his cane on 5/25/25. which does violated his  
 24 rights.  
 25 Here in (Exhibit#(P)) is 3 pages of Def's Aragon's & Gasca's, Resp'  
 26 to Plaintiff's req for Admiss; set one's; on page 1 of 3, is, Def' O  
 27 Aragon's, resp" to PL's req for Admissions, set one; under Reg. No 5, Def  
 28 Aragon (Admit) That he approved The RVR that Def Gasca wrote on May 25, 2021.



1 see Lines 6-10) and Def' Aragon also (Admit) That it was Def' Gasca's  
 2 duty to watch the rec" yard on May 25<sup>th</sup>, 2021 (on pages 2-3) is Def' H.  
 3 Gasca's responses to req' for Admiss, set one; Lines 10-18, under Req<sup>#</sup> 14  
 4 Def' Gasca, (Admit) He Gasca has been accused of misconduct  
 5 while working for CDCR (on Lines 3-5, page 3; Def' Gasca (Admit) th  
 6 He was trained on protecting inmates and the use of force.

7 UNDisputed FACTS "TO Prove There is an issue, and a  
 8 Genuine ISSUE:

9 See (Exhibit "Q") 2 pages) page 1, is Def' Aragon's resp, Pl's Req for  
 10 Admiss, set one; page 2, is Def' Coronado resp to Pl's req for Admiss  
 11 Set one:

12 Here in (Ex "Q" page 1; defendant Aragon, Admit on Lines-  
 13 23-27) HE ORDERED % GASCA and Coronado to cuff CHILDS if  
 14 on May 25, 2021, after the incident on the yard (This is the  
 15 Strongest UNDisputed fact "TO The genuine issue." due  
 16 to his Contradicting statements, saying when he arrived  
 17 to the incident CHILDS was in (cuffs) restraints already.  
 18 SEE The Contradicting STATEMENT in (Ex, J. page 4) Def. Aragon  
 19 stated: When he arrived to The TC2 recreational yard he witness  
 20 INMATE Brown, and Childs F-14668) was face down in a prone position  
 21 with handcuffs already placed on both of them.

22 BUT HE Admitted in (Ex "Q") He ordered the 2 Defs Gasca, and  
 23 Coronado to place plaintiff in cuffs.  
 24 in (Exhibit "L", pgl) defendant Aragon stated when He arrived to  
 25 the incident, plaintiff CHILDS had already been restrained

26 UNDisputed facts is in this (Exhibit (Q) page 1, Req (Q) Aragon, (Admit  
 27 THAT He ordered the other (two) defendants to cuff CHILDS if  
 28 on May 25, 2021, after the incident (Contradicting statements)



# Defendants Shall Not Be Entitled To Qualified Immunity.

Defendants are not entitled to qualified immunity. Def's are liable for their decision to subject plaintiff to cruel and unusual punishment, and for failure to protect plaintiff and being deliberately indifferent to plaintiff's safety by failing to intervene during the May 25, 2021 attack on plaintiff (see: *Leer vs. Murphy*, 844 F.2d 628, 634 (9th Cir 1988); *Redman v. County of San Diego*, 924 F.2d 1435, 1446 (9th Cir 1991); *Farmer v. Brennan*, 511 U.S. 825, 833 (1994)). The Supreme Court affirmed failure to protect violate the eighth Amendment rights under cruel and unusual punishment.

Also all 3 defendants shouldn't be entitled to qualified immunity because all 3 def's worked under the color of law and none of plaintiff's injuries came by way of plaintiff's own negligences and conduct. All 3 def's knew of the attack on plaintiff and failed to protect him and intervene. All (3) def's violated plaintiff's 8th Amendment rights by way of deliberate indifference to plaintiff's safety.

Plaintiff's motion should be granted

DUE TO Defendants Failure to  
Protect him"

THE ISSUE! Discovery is a process for learning facts and obtaining evidence relevant to your case. The Federal Court discovery Rule are based on the idea that justice is best served if each side knows what the other side will try to prove.

Discovery responses showing the existence of disputed issues of material fact. (*Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir, 1998)

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